

Update: Juvenile Justice Benchbook (Revised Edition)

CHAPTER 7

Pretrial Proceedings in Delinquency Cases

7.8 Evaluating a Juvenile's Competence

Insert the following case summary on p 164 immediately before the beginning of Section 7.9:

In limited circumstances, the United States Constitution “permits the Government to administer antipsychotic drugs involuntarily to a mentally ill criminal defendant — in order to render that defendant competent to stand trial for serious, but nonviolent, crimes.” *Sell v United States*, ___ US ___, ___ (2003). The Supreme Court framed the issue in *Sell* as follows:

“Does forced administration of antipsychotic drugs to render [the defendant] competent to stand trial unconstitutionally deprive him of his ‘liberty’ to reject medical treatment?” ___ US at ___.

The *Sell* Court’s decision was guided by two previous Supreme Court cases involving administering drugs to an inmate against the inmate’s will. In *Washington v Harper*, 494 US 210, 221 (1990), the United States Supreme Court recognized that an individual possesses a “‘significant’ and constitutionally protected ‘liberty interest’ in avoiding the unwanted administration of antipsychotic drugs.” However, forced administration in *Harper* was justified by “legitimate” and “important” state interests, including the constitutionally sound state interest of treating a prison inmate with serious mental illness who poses a danger to himself or others, when that treatment is in the inmate’s best medical interests. ___ US at ___. In *Riggins v Nevada*, 504 US 127, 134-135 (1992), the Court indicated that only an “essential” or “overriding” state interest could overcome an individual’s constitutional right to decline the administration of antipsychotic drugs. The *Riggins* Court cautioned that an analysis of the competing interests (the defendant’s right to deny medication and the state’s interest) must include determinations that the medication was “medically appropriate” and “essential” to the safety of the defendant or others. ___ US at ___.

On the facts of the *Sell* case, where the defendant's offenses were primarily nonviolent, but where the defendant verbally threatened to harm a specific individual, the *Sell* Court held:

“[T]he Constitution permits the Government involuntarily to administer antipsychotic drugs to a mentally ill defendant facing serious criminal charges in order to render that defendant competent to stand trial, but only if the treatment is medically appropriate, is substantially unlikely to have side effects that may undermine the fairness of the trial, and, taking account of less intrusive alternatives, is necessary significantly to further important governmental trial-related interests.” ____ US at ____.

The *Sell* Court predicted that cases permitting the forced administration of antipsychotic medication *solely* for trial-competence purposes would be rare due to the government's high burden of proof to justify medication solely for the sake of the defendant's competence to stand trial. The Court suggested that alternative grounds in support of forced drug administration (health and safety issues, potential for harming self or others, etc.) be explored before attempting to obtain permission on the basis of the defendant's competence to stand trial. ____ Mich at ____.

CHAPTER 10

Juvenile Dispositions

10.12 Restitution

E. Persons or Entities Entitled to Restitution

Add the following new subsection on the top of p 239:

The Court may not order restitution to a government agency for routine costs of investigating and prosecuting crimes. Citing to the *Crigler* Court's interpretation of the applicable statute, the Court of Appeals vacated a trial court's order that the defendant pay the Barry County Sheriff's Department \$2,500.00 restitution for the costs incurred in its investigation of the defendant. *People v Newton*, ___ Mich App ___, ___ (2003). The *Newton* Court, like the *Crigler* Court, concluded that the general costs of a criminal investigation are not "direct [] financial harm" caused by a defendant's crime and thus are not expenses for which a defendant may be made to pay restitution. In *Newton*, the defendant was convicted of selling alcohol without a license from a barn on the defendant's property where parties were frequently held and informally advertised. The *Newton* Court adopted the *Crigler* Court's dicta and held that "the cost of the investigation would have been incurred without regard to whether defendant was found to have engaged in criminal activity." ___ Mich App at ___.

CHAPTER 10

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10.12 Restitution

I. Calculating Restitution Where the Offense Results in Physical or Psychological Injury, Serious Bodily Impairment, or Death

Insert the following case summary on p 244 before the paragraph beginning with “Mental or emotional injuries . . .”:

In *Kreiner v Fischer*, ___ Mich ___ (2003), in lieu of granting leave to appeal, the Supreme Court vacated the Court of Appeals’ decision and remanded the case to the Court of Appeals with specific instructions regarding the definition of “serious impairment of a body function” and its application to the facts:

“Although a *serious* effect is not required, *any* effect does not suffice either. Instead, the effect must be on one’s *general* ability to lead his normal life. Because we believe that neither of the lower courts accurately addressed this issue, we remand this case to the Court of Appeals for it to consider whether plaintiff’s impairment affects his general ability to lead his normal life.”

In *Kreiner*, uncontested evidence showed that the plaintiff sustained lower back and leg injuries in a motor vehicle collision and that the effects were likely chronic and no medical intervention could reverse the damage. Even though the trial court acknowledged that the plaintiff’s injuries were “objectively manifested” and involved an “important body function,” the court granted the defendant’s motion for summary disposition based on its conclusion that the plaintiff’s impairment was “not serious enough” to affect the plaintiff’s ability to lead a normal life. On remand, the Court of Appeals again reversed the trial court, citing the unambiguous statutory definition contained in MCL 500.3135(7) and quoting from an earlier opinion in the case:

“[T]he trial court ruled that as a matter of law the impairment was not “serious enough” to impinge on plaintiff’s ability to lead a normal life. This was error. The third prong of the statutory definition explicitly requires only that the impairment ‘affect[] the person’s general ability to lead his or her normal life.’” ___ Mich App at ___, quoting *Kreiner v Fischer*, 251 Mich App 513, 518 (2002).

The Court of Appeals emphasized that although the “effect” need not be serious, the statutory requirement is not satisfied by “any” effect. *Kreiner*,

supra at _____. In reaching the same conclusion it reached when first presented with the dispute, the Court of Appeals explained:

“[O]ne’s general ability to lead his or her normal life can be affected by an injury that impacts the person’s ability to work at a job, where the job plays a significant role in that individual’s normal life Employment or one’s livelihood, for a vast majority of people, constitutes an extremely important and major part of a person’s life An injury affecting one’s employment and ability to work, under the right factual circumstances, can be equated to affecting the person’s *general* ability to lead his or her normal life.” *Kreiner, supra* at ____ (emphasis in original).